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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* THOMAS LEE MILLER and ROBERT BRUCE KLEVE

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Appeal 2016-002624  
Application 13/116,347<sup>1</sup>  
Technology Center 2400

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Before ROBERT E. NAPPI, LINZY T. McCARTNEY, and  
CARL L. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's  
Final Rejection of claims 1–20, which constitute the only claims pending.  
We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

The invention relates to detecting a personal communication device  
(PCD) in a vehicle having driver and passenger zones. Abstract; Fig. 2.  
Claim 1, reproduced below, is exemplary of the subject matter on appeal  
(disputed limitation emphasized):

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<sup>1</sup> The real party in interest is identified as Ford Global Technologies, LLC.  
App. Br. 3.

1. A system for detecting a personal communication device (PCD) in a vehicle having a driver zone and a passenger zone, the system comprising:

a camera configured to transmit a first signal indicative of a captured image of an object in the driver zone;

*a controller configured to:*

receive the first signal;

receive a status signal indicative of the PCD being in one of a sleep mode and a wake up mode;

receive a motion signal indicative of the PCD being in one of a stationary mode and a motion mode; and

*detect that the PCD is in the driver zone in response to the captured image of the object corresponding to the PCD and one of the status signal indicating that the PCD is in the wake up mode and the motion signal indicating that the PCD is in the motion mode.*

App. Br. (Claims Appendix 1).

## THE REJECTIONS

Claims 1–3, 8–15, and 20 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Haley (US 2011/0105082 A1, pub. May 5, 2011) in view of Tibbitts et al. (US 2011/0021234 A1, pub. Jan. 27, 2011) (“Tibbitts”). Final Act. 2–6.

Claims 4–7 and 16–19 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Haley in view of Tibbitts and further in view of Fujioka et al. (US 2007/0120948 A1, pub. May 31, 2007) (“Fujioka”). Final Act. 6–8.

## ANALYSIS

Appellants argue Haley and Tibbitts do not disclose the claim 1 limitation “*a controller configured to . . . detect that the PCD is in the driver*

*zone in response to the captured image of the object corresponding to the PCD*” (emphasis added). App. Br. 5–7; Reply Br. 1–3.

According to Appellants, Haley “merely provides an image of an object that is ‘adult-human-like’ or ‘two live-adult-like objects’” and these objects “do not correspond to the PCD.” App. Br. 6 (citing ¶ 105) (emphasis omitted); *see also* Reply Br. 1–3 (citing ¶¶ 41, 42). Appellants further argue the Examiner’s interpretation “is not reasonable in light of the broadest reasonable interpretation in view of Appellant's specification.” App. Br. 6–7. In particular, Appellants refer to the Specification:

In operation 44, the controller 16 monitors data received from the camera 22. As noted above, the camera 22 may be orientated or positioned on the driver in the driver zone 26 and transmit data regarding the same to the controller 16. For example, the camera 22 may capture an image of the driver while in the driver zone 26 and process data to detect any gesture or motion that indicates PCD usage (e.g., manual entry on the PCD 18, the viewing of a screen/display, or holding of the PCD 18 to an ear of the driver).

App. Br. 6–7 (citing Spec. ¶ 31) (emphasis omitted).

The Examiner finds Haley teaches “that the transmitter sends a signal in the vehicle when it detects the presence of live adult like objects” and “[t]herefore, a signal was transmitted to indicate . . . an object in the driver zone.” Ans. 11 (citing ¶ 105). The Examiner finds a camera is coupled to the image processor and determines an object being in view. *Id.* The Examiner finds “Haley teaches . . . that when the phone is in the hands of the driver, a signal is sent,” the detection of the phone (PCD) is when the phone is near the driver.” *Id.* at 11–12 (citing ¶¶ 41, 42). In particular, the Examiner finds “[s]ince the driver and passenger are interpreted as the objects in [0105], the phone being in the driver's hand would be a

correspondence to the PCD” and “[t]hese citations alone are evidence that a PCD is detected in the driver zone as claimed by appellants.” *Id.* at 12.

We are persuaded by Appellants’ arguments. In particular, the Examiner presents insufficient evidence that Haley or Tibbitts teaches a camera which captures an image from which captured image a PCD is detected in the driver zone. Rather, Haley teaches cameras that sense human presence (warmth) at the driver seat and another seat, but does not teach the PCD location is detected through and in response to such cameras. *See* Haley ¶ 105. Tibbitts is not relied upon by the Examiner for the disputed limitation “*a controller configured to . . . detect that the PCD is in the driver zone in response to the captured image of the object corresponding to the PCD*” (emphasis added). Final Act. 2–4 (citing Haley ¶ 69); *see also* Ans. 12–13).

In view of the above, we do not sustain the rejection of claim 1, and independent claims 13 and 20 which recite limitations similar to the disputed limitation of claim 1. We also do not sustain the rejections of dependent claims 2–12 and 14–20 as Fujioka is not cited by the Examiner for the disputed limitation, discussed *supra*. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (“[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious . . .”). Because our decision with regard to the disputed limitation is dispositive of the rejection of all pending claims, we do not address additional arguments raised by Appellants.

## DECISION

We reverse the Examiner’s decision rejecting claims 1–20.

Appeal 2016-002624  
Application 13/116,347

REVERSED